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OFFICE OF PETITIONS

In re Application of :
Tanumihardja et al. :
Application No. 09/894,278 :
Filed: 27 June, 2001 :
Attorney Docket No. 0805-003-
003-SEED :
ON PETITION

This is a decision in reference to the renewed petition under 37 CFR 1.181 filed on 11 August, 2006, to withdraw the holding of abandonment.

The petition is again **DISMISSED**.

This application became abandoned on 27 August, 2005, for failure to submit a timely response to the non-final Office action mailed on 26 May, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 31 January, 2006. The petition under 37 CFR 1.181 filed on 10 April, 2006, was dismissed on 12 June, 2006.

Petitioners again assert that the Office action mailed on 26 May, 2005, was never received.

The showing of record is insufficient to withdraw the holding of abandonment. In this regard, it is noted that Page 3, paragraph D, of the renewed petition states:

In response to Senior Petitions Attorney Wood's direction as set forth above, on August 2, 2006, our

office contacted Seed Intellectual Property Group and asked for a written statement from Seed concerning the receipt and/or forwarding of correspondence for the Seed '403 (the docket number for the subject patent application) during the time period referenced in the Decision to Dismiss (e.g. "the time the Office action mailed on 26 May, 2005, was mailed, and for a reasonable time thereafter"). In response to our query, Seed Intellectual Property Group researched the matter further and informed us that, according to their internal log of incoming correspondence, Seed received a non-final Office Action for the Seed '403 file on 01 June 2005. Seed also informed us that their internal log indicated that the non-final Office Action for the Seed '403 file was forwarded to Intellectual Ventures, LLC on 02 June 2005.

As such, the showing of record is that the Office action mailed on 25 May, 2005, was in fact received at the correspondence address, but was lost or misplaced after receipt. While this is an unfortunate circumstance, the Office is nonetheless precluded from withdrawing the holding of abandonment, as the showing of record is that the Office action was in fact received at the correspondence address.¹

Petitioners are strongly advised to file a petition to revive the application under 37 CFR 1.137(a) or (b). To this end, a copy of the Office action mailed on 26 May, 2005, is enclosed with this decision for use in preparing petitioners' reply to the Office action to be filed with the petition to revive.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**²

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

¹ Withdrawal of the holding of abandonment is not appropriate if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail. See MPEP 711.03(c).

² 37 CFR 1.181(f).

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Office action mailed on 26 May, 2005